

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

FIRST AMERICAN TITLE
INSURANCE COMPANY,

Plaintiff

vs.

APEX TITLE, INC., THE LAW OFFICE OF
MICHAEL A. EDDINGS, P.C., MICHAEL A.
EDDINGS, individually, SONYA EDDINGS,
COLUMBUS BANK AND TRUST COMPANY,
a Division of Synovus Bank, UPTOWN FISH
HOUSE, LLC, EDDINGS HOLDINGS, INC.
d/b/a THE COFFEE BEANERY

Defendant.

CIVIL ACTION FILE NO:
4-12-cv-10(CDL)

ANSWER to Complaint for Damages, COUNTER CLAIM AND CROSSCLAIM

COMES NOW The Law Office of Michael A. Eddings, P.C., (Law Office)
Defendant in the above styled action, and files this, its Answer to Complaint for
Damages, Counterclaim and Cross-claim, and respectfully shows as follows:

ANSWER

1.
Defendant is without sufficient information to admit or deny paragraph 1.

2.
Defendant admits paragraph 2.

3.
Defendant admits paragraph 3.

4.
Defendant admits paragraph 4.

5.
Defendant admits paragraph 5.

6.
Defendant admits paragraph 6.

7.
Defendant admits paragraph 7.

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8.

Defendant admits paragraph 8.

9.

Paragraph 9 calls for a legal conclusion. Defendant is without sufficient information to admit or deny whether complete diversity exists.

10.

Defendant admits paragraph 10.

11.

Defendant admits paragraph 11.

12.

Defendant admits paragraph 12.

13.

Defendant admits paragraph 13.

14.

Defendant admits paragraph 14.

15.

Defendant admits paragraph 15.

16.

In response to paragraph 16, defendant is without sufficient knowledge to admit or deny this allegation, as Defendant has not seen the results of First American's audit. Defendant denies mishandling any funds. Any mishandling of funds was done by Sonya Eddings individually and without Defendant's knowledge or consent. Further, Defendant shows Sonya Eddings took active steps to conceal her conduct from defendant.

17.

In response to paragraph 17, defendant admits that Sonya Eddings' engaged in the conduct, but denies having any knowledge of Sonya Eddings conduct. Defendant is without sufficient information to admit or deny where Sonya Eddings diverted funds.

18.

In response to paragraph 18, defendant denies that Michael Eddings made any admissions. Defendant is without sufficient information to admit or deny what statements Sonya Eddings made to First American.

19.

In response to paragraph 19, Defendant denies any knowledge of Sonya Eddings' misconduct, or that she was explicitly or implicitly authorized to engage in such conduct or that defendant condoned any such actions.

20.

In response to paragraph 20, defendant is without knowledge as to if and when the escrow account was overdrawn as Plaintiff has seized the escrow account's bank statements. Defendant is without knowledge as to where escrow funds were paid out, or for what use they were diverted.

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21.

In response to paragraph 21, defendant denies taking any action to conceal or alter the state of the escrow account statements.

22.

In response to paragraph 22, defendant denies any knowledge of any "ongoing scheme" or any knowledge of Sonya Eddings' conduct.

23.

In response to paragraph 23, defendant denies that Michael Eddings had any knowledge of any mishandling or misappropriation of funds.

24.

In response to paragraph 24, defendant denies participating in any misconduct or mishandling of escrow funds.

COUNT ONE: BREACH OF CONTRACT

25.

In response to paragraph 25, defendant incorporates all the above answers. Even though Defendant is not a party to this and other counts below, each paragraph is answered individually as the counts involving Defendant incorporate these paragraphs.

26.

Defendant denies paragraph 26.

27.

Defendant denies paragraph 27.

28.

Defendant denies paragraph 28.

29.

Defendant denies paragraph 29.

30.

Defendant denies paragraph 30.

31.

Defendant denies paragraph 31.

COUNT TWO: GUARANTEE BY MICHAEL EDDINGS

32.

In response to paragraph 32, defendant hereby incorporates each an every response stated above.

33.

Defendant admits paragraph 33.

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34.
Defendant denies paragraph 34.

35.
Defendant denies paragraph 35.

COUNT THREE – PROFESSIONAL NEGLIGENCE

36.
In response to paragraph 36, defendant hereby incorporates each and every response stated above.

37.
Defendant admits paragraph 37.

38.
Defendant denies paragraph 38.

39.
Defendant denies paragraph 39.

40.
Defendant denies paragraph 40. Plaintiff's affidavit fails to set out the factual basis of any negligent act.

41.
Defendant denies paragraph 41.

42.
Defendant denies paragraph 42.

COUNT FOUR: INDEMNIFICATION

43.
In response to paragraph 43, Defendant hereby incorporates each and every response stated above.

44.
Defendant denies paragraph 44.

45.
Defendant denies paragraph 45.

46.
Defendant denies paragraph 46.

47.
Defendant denies paragraph 47.

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COUNT FIVE: FRAUD

48.

In response to paragraph 48, defendant hereby incorporates each and every response stated above.

49.

Defendant denies paragraph 49. Defendant was without knowledge about any deficiency in disbursing closing funds.

50.

Defendant denies paragraph 50.

51.

Defendant denies paragraph 51.

COUNT FIVE(SIC): CONSPIRACY TO DEFRAUD

52.

In response to paragraph 52, defendant hereby incorporates each and every response stated above.

53.

Defendant denies paragraph 53.

COUNT SIX: CONVERSION AND UNJUST ENRICHMENT

54.

In response to paragraph 55, defendant hereby incorporates each and every response stated above.

55.

Defendant is without sufficient information to admit or deny paragraph 56.

56.

Defendant denies paragraph 57. Sonya Eddings acted alone and without Defendant's knowledge.

57.

Defendant denies any knowledge of Sonya Edding's conduct implied in paragraph 58..

58.

Defendant denies paragraph 59.

59.

Defendant denies paragraph 60.

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COUNT SEVEN: NEGLIGENCE

60.

Paragraphs 61 through 66 do not require a response except to deny any "repeated and calculated scheme of diverting funds" as stated in paragraph 64.

COUNT NINE: PIERCING THE CORPORATE VEIL AND IMPOSITION OF CONSTRUCTIVE TRUST

61.

Defendant hereby incorporates each and every response stated above in response to paragraph 67.

62.

Defendant admits that Michael A. Eddings is the principle of Apex Title Inc and the Law Office of Michael A. Eddings, P.C., in response to paragraph 68.

63.

Defendant denies paragraph 69.

64.

Defendant denies paragraph 70.

65.

Defendant denies paragraph 71.

COUNT TEN: PUNITIVE DAMAGES

66.

Defendant hereby incorporates each and every response stated above in response to paragraph 72.

67.

Defendant denies paragraph 73.

COUNT TEN (SIC) : ATTORNEY'S FEES AND LITIGATION EXPENSES

68.

Defendant hereby incorporates each and every response stated above in response to paragraph 74.

69.

Defendant denies paragraph 75.

70.

Defendant denies paragraph 76.

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FIRST AFFIRMATIVE DEFENSE: CONTRIBUTORY NEGLIGENCE

All Claims

71.

Plaintiff had a duty to act with reasonable care.

72.

Plaintiff breached this duty by acting unreasonably in conducting its' audit and terminating the agency agreement.

73.

First Americans' conduct was a proximate cause of at least a portion of the above claimed damages.

CROSSCLAIM ONE: NEGLIGENCE

Defendant- CB&T

71.

Defendant Columbus Bank and Trust ("CB&T") is a division of Synovus Bank, a Georgia Corporation, and is a party to the above styled action. CB&T is subject to the jurisdiction of this Court and venue is proper herein.

72.

This Court has jurisdiction over this claim under 28 U.S.C. § 1367.

73.

Defendant CB &T had a duty to inform the Law Office of Michael A Eddings, P.C. and Michael A. Eddings personally as to the practices sole shareholder and practioner, of any overdrafts or account improprieties and to notify the State Bar of Georgia of any overdraft on the account.

74.

Defendant CB&T breached that duty by not informing the Law Office of Michael A Eddings, P.C. or Michael A. Eddings of the overdraft. Nor did it inform the State Bar of Georgia of the overdraft.

75.

As a result of Defendant CB&T's failure to notify when the escrow account was overdrawn, Defendant was kept ignorant of the diversions of funds and has potentially incurred substantial liability.

CROSSCLAIM TWO: FRAUD

Defendant – Sonya Eddings

76.

Defendant, Sonya Eddings, is a resident of Muscogee County, Georgia and is a party to the above styled action. Sonya Eddings is subject to the jurisdiction of this Court and venue is proper herein.

77.

The court has jurisdiction over this claim under 28 U.S.C. § 1367.

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78.

Defendant Sonya Eddings misrepresented to the Law Office certain material existing facts, namely that since some time in 2007 Defendant Sonya Eddings began falsely representing that she was properly wiring outgoing funds to pay off loans and other expenses associated with loans closed by the Law Office. Furthermore, Defendant Sonya Eddings began creating false wire confirmations.

79.

Defendant made these misrepresentations with the knowledge that they were false or with reckless disregard of the truth thereof.

80.

Defendant Sonya Eddings intended to and did deceive the Law Office with these misrepresentations.

81.

The Law Office acted upon these misrepresentations in reasonable reliance upon their veracity, in that the Law Office carried out closings and issued title policy's based on the representations that the funds from closings were being properly disbursed.

82.

As a proximate result thereof, the Law Office was injured to the extent that it is liable to other parties for a failure to properly disburse closing funds.

CROSSCLAIM THREE: CONVERSION

Defendant – Sonya Eddings

83.

Defendant, Sonya Eddings, is a resident of Muscogee County, Georgia and is a party to the above styled action. Sonya Eddings is subject to the jurisdiction of this Court and venue is proper herein.

84.

The court has jurisdiction over this claim under 28 U.S.C. § 1367.

85.

Since some time in 2007, Defendant Sonya Eddings began converting funds received in the course of conducting real estate closings and held in escrow. See Defendant's Exhibit A.

86.

Since beginning in 2007 up through October 2011, Sonya Eddings converted an unknown amount of escrow funds, by her own estimate over \$ 2,000,000.00, the exact amount to be proven at trial.

COUNTERCLAIM ONE: NEGLIGENCE

Defendant- First American Title Insurance Company ("First American") and CB&T

87.

Plaintiff, First American, is a foreign corporation with a principal office at 1 First American Way, Santa Ana, California. Plaintiff has submitted itself to the jurisdiction of this court by filing suit in this Court.

88.

This Court has jurisdiction over this claim under 28 U.S.C. § 1332 and 28 U.S.C. § 1367.

89.

Plaintiff had a duty to use reasonable care in the conducting of its audit and investigation into account irregularities of Apex Title, Inc. and The Law Office of Michael A. Eddings P.C.

90.

Plaintiff breached that duty by acting unreasonably in the manner that they suspended the ability of Apex Title, Inc. and The Law Office of Michael A. Eddings, P.C. to close real estate transactions.

91.

Purchaser's wired funds into Defendant Law Office's escrow account in anticipation of closing transactions that Plaintiff gave authorization to occur, but then subsequently unreasonably withdrew authorization to close.

92.

Plaintiff's failure to use reasonable care resulted in damage to Defendant Law Office to the extent that Law Office is liable to third parties for these failed closings.

WHEREFORE Defendant prays that:

- a) Plaintiff's prayers be denied;
- b) Defendant be awarded compensatory damages as a result of Defendant Sonya Eddings fraudulent conduct;
- c) Defendant be awarded compensatory damages as a result of Defendant Sonya Eddings conduct of misappropriating and converting funds;
- d) Defendant be awarded compensatory damages as a result of First American's negligence;
- e) Defendant be awarded compensatory damages a result of CB&T's negligence; and
- f) Defendant have whatever other relief the court deems equitable and just.

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This 1st day of April 2012.

HARP & POYDASHEFF, LLC.

/s Robert S. Poydasheff, Jr.
Robert S. Poydasheff, Jr.
State Bar No. 586593
Attorney for Law Office of Michael A. Eddings P.C.

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served upon opposing counsel in the above styled case a true and correct copy of the Answer to Complaint for Damages and Defendant's Counterclaim and Crossclaim by hand delivery and/or depositing the same in the United States mail in an envelope with sufficient postage thereon to:

Jeffrey Schneider
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center
4th Floor
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Attorney for First American Title Insurance Company

William L. Tucker
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P.O. Box 1199
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706.324.0251

Sonya Eddings
3 Mink Court
Midland Georgia 31820

This 1st day of April 2012.

HARP & POYDASHEFF, LLC.

/s Robert S. Poydasheff, Jr.
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